

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-0329-MWD-E **TCEQ ID:** RN102184355 **CASE NO.:** 32863  
**RESPONDENT NAME:** City of Huntington

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** City of Huntington WWTP, located approximately one mile southeast of the intersection of U.S. Highway 69 and Farm-to-Market Road 1669 between the Southern Pacific Railroad and Shawnee Creek, Angelina County

**TYPE OF OPERATION:** Wastewater treatment facility

**SMALL BUSINESS:** ☐ Yes ☒ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on July 1, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney/SEP Coordinator:** Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768  
**TCEQ Enforcement Coordinator:** Mr. Samuel Short, Enforcement Division, Enforcement Team III, MC 149, (512) 239-5363; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896  
**Respondent:** Mr. Robert Walker, City Manager, City of Huntington, Post Office Box 349, Huntington, Texas 75949  
                     Mr. Jack Carter, Deputy Administrator, City of Huntington, Post Office box 349, Huntington, Texas 75949  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b> <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Record Review Relating to this Case:</b> February 7, 2007</p> <p><b>Date of NOE Relating to this Case:</b> February 27, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review.</p> <p><b>WATER</b></p> <p>Failure to comply with the permitted effluent limits [30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. WQ0010191001, Effluent Limitations and Monitoring Requirement No.1, and TEX. WATER CODE § 26.121(a)].</p>	<p><b>Total Assessed:</b> \$3,960</p> <p><b>Total Deferred:</b> \$792 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$3,168</p> <p><b>Total Paid (Due) to General Revenue:</b> \$0</p> <p><b>Site Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that the City replaced the original fixed aeration system with a retrievable system that provided increased capacity and improved maintenance on December 13, 2006 and returned to compliance with their permitted effluent limits on January 31, 2007.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p>

**Attachment A**  
**Docket Number: 2007-0329-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Huntington</b>
<b>Payable Penalty Amount:</b>	<b>Three Thousand One Hundred Sixty-Eight Dollars (\$3,168)</b>
<b>SEP Amount:</b>	<b>Three Thousand One Hundred Sixty-Eight Dollars (\$3,168)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Angelina Beautiful Clean</b>
<b>Location of SEP:</b>	<b>Angelina County</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to collect and properly dispose of illegally dumped waste. Eligible sites will be limited to areas where a responsible party cannot be identified and where there is no pre-existing obligation to clean up the site by the owner.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by providing for the proper disposal of waste which will help prevent human health concerns associated with illegally dumped waste.

**C. Minimum Expenditure**

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.



## **2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Valena Spradley  
Chairman of the Board  
Angelina Beautiful Clean  
1615 South Chestnut  
Lufkin, Texas 75901

## **3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

## **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.



**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.







# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	5-Mar-2007	<b>Screening</b>	6-Mar-2007	<b>EPA Due</b>	
	<b>PCW</b>	7-Mar-2007				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Huntington		
<b>Reg. Ent. Ref. No.</b>	RN102184355		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	32863	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2007-0329-MWD-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Samuel Short	
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 4	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$3,000**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **62% Enhancement** **Subtotals 2, 3, & 7** **\$1,860**

**Notes** A 62% enhancement is recommended for having 12 NOV's for self-reported effluent data and one NOV for non-similar violations within the last five years.

**Culpability** **No** **0% Enhancement** **Subtotal 4** **\$0**

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** **25% Reduction** **Subtotal 5** **\$750**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

**Notes** The Respondent returned to compliance on January 31, 2007.

**Total EB Amounts** **\$92** **0% Enhancement\*** **Subtotal 6** **\$0**  
**Approx. Cost of Compliance** **\$2,000** **\*Capped at the Total EB \$ Amount**

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$4,110**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **-4%** **Adjustment** **-\$150**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes** Recommended reduction in the penalty so that monthly self reported effluent violations do not overly-impact the penalty amount.

**Final Penalty Amount** **\$3,960**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$3,960**

**DEFERRAL** **20% Reduction** **Adjustment** **-\$792**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$3,168**

Screening Date 6-Mar-2007

Docket No. 2007-0329-MWD-E

PCW

Respondent City of Huntington

Policy Revision 2 (September 2002)

Case ID No. 32863

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102184355

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	12	60%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 62%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

A 62% enhancement is recommended for having 12 NOVs for self-reported effluent data and one NOV for non-similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 62%

Screening Date 6-Mar-2007

Docket No. 2007-0329-MWD-E

PCW

Respondent City of Huntington

Policy Revision 2 (September 2002)

Case ID No. 32863

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102184355

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0010191001, Effluent Limitations and Monitoring Requirement No.1

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on February 7, 2007. See attached table.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen ("NH<sub>3</sub>-N") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow, carbonaceous biochemical oxygen demand ("CBOD"), and Total Suspended Solids ("TSS") values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 3

181 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$92

Violation Final Penalty Total \$3,960

This violation Final Assessed Penalty (adjusted for limits) \$3,960

## Economic Benefit Worksheet

**Respondent** City of Huntington  
**Case ID No.** 32863  
**Reg. Ent. Reference No.** RN102184355  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	28-Feb-2006	31-Jan-2007	0.9	\$92	n/a	\$92

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$92

**Effluent Violation Table**  
**City of Huntington**  
**TPDES Permit No. WQ0010191001 (Outfall 001A)**  
**Docket No. 2007-0329-MWD-E**

Permitted Effluent Limits	Monitoring Period End Date					
	02/28/2006	03/31/2006	04/30/2006	07/31/2006	09/30/2006	10/31/2006
NH <sub>3</sub> -N Daily Avg. 3 mg/L	3.4	5.1	13.2	3.1	C	C
NH <sub>3</sub> -N Single Grab 15 mg/L	C	C	16.6	C	C	C
NH <sub>3</sub> -N Daily Avg. 8.8 lbs/dy	C	C	21.3	C	C	C
TSS Daily Avg. 15 mg/L	C	C	C	18.8	19.3	20.3

Avg. = average	C = compliant	mg/L = milligrams per liter
Lbs/dy = pounds per day	NH <sub>3</sub> -N= ammonia nitrogen	TSS = Total Suspended Solids



# Compliance History

Customer/Respondent/Owner-Operator: CN600738157 City of Huntington Classification: AVERAGE Rating: 0.53  
 Regulated Entity: RN102184355 CITY OF HUNTINGTON Classification: AVERAGE Site Rating: 0.53  
 ID Number(s): WASTEWATER PERMIT WQ0010191001  
 WASTEWATER PERMIT TPDES0053422  
 WASTEWATER PERMIT TX0053422  
 SLUDGE REGISTRATION 21943  
 WASTEWATER LICENSING LICENSE WQ0010191001  
 Location: APPROXIMATELY ONE MILE SOUTHEAST OF THE Rating Date: September 01 06 Repeat Violator: NO  
 INTERSECTION OF U.S. HIGHWAY 69 AND FARM-TO-  
 MARKET ROAD 1669 BETWEEN THE SOUTHERN PACIFIC  
 RAILROAD AND SHAWNEE CREEK, IN ANGELINA  
 COUNTY  
 TCEQ Region: REGION 10 - BEAUMONT  
 Date Compliance History Prepared: March 05, 2007  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: March 05, 2002 to March 05, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Samuel Short Phone: (512) 239-5363

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 03/18/2002 (184805)
- 2 03/18/2002 (184823)
- 3 05/14/2002 (184790)
- 4 05/14/2002 (184793)
- 5 05/14/2002 (184797)
- 6 05/14/2002 (184801)
- 7 07/05/2002 (184803)
- 8 08/23/2002 (184806)
- 9 09/23/2002 (184809)
- 10 10/14/2002 (184812)
- 11 11/21/2002 (184816)
- 12 12/27/2002 (184820)
- 13 01/17/2003 (20368)
- 14 01/21/2003 (184824)
- 15 02/26/2003 (184791)
- 16 03/27/2003 (184794)
- 17 04/14/2003 (184798)
- 18 05/21/2003 (306707)
- 19 06/23/2003 (306708)
- 20 07/25/2003 (306709)
- 21 08/12/2003 (306710)
- 22 09/09/2003 (248204)

23	09/23/2003	(306711)
24	10/20/2003	(306712)
25	11/24/2003	(306713)
26	12/29/2003	(306714)
27	01/27/2004	(306715)
28	02/20/2004	(306704)
29	03/09/2004	(264432)
30	03/16/2004	(306705)
31	04/14/2004	(306706)
32	05/24/2004	(356595)
33	06/23/2004	(356596)
34	07/23/2004	(356597)
35	09/09/2004	(356598)
36	09/17/2004	(356599)
37	10/18/2004	(356600)
38	11/16/2004	(384368)
39	12/27/2004	(384369)
40	01/25/2005	(384370)
41	02/21/2005	(384366)
42	03/21/2005	(384367)
43	04/16/2005	(422305)
44	05/17/2005	(422306)
45	06/16/2005	(422307)
46	07/21/2005	(443222)
47	08/26/2005	(443223)
48	09/22/2005	(443224)
49	10/27/2005	(472969)
50	11/15/2005	(472970)
51	12/21/2005	(472971)
52	01/19/2006	(472972)
53	02/21/2006	(472967)
54	03/23/2006	(472968)
55	04/20/2006	(501255)
56	05/22/2006	(501256)
57	06/20/2006	(501257)
58	07/21/2006	(523492)
59	08/28/2006	(523493)
60	09/19/2006	(523494)
61	02/27/2007	(539720)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date	03/31/2002	(184797)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/30/2002	(184820)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	01/17/2003	(20368)		
Self Report?	NO		Classification	Minor
Rqmt Prov:	OP 10191-001			
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.			
Self Report?	NO		Classification	Major
Rqmt Prov:	OP 10191-001			
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.			
Date	05/31/2004	(356596)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	02/28/2005	(384367)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			



Description:	TWC Chapter 26 26.121(a)[G] Failure to meet the limit for one or more permit parameter		
Date	03/31/2005	(422305)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/30/2005	(472971)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/28/2006	(472968)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2006	(501255)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	04/30/2006	(501256)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	07/31/2006	(523493)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	09/30/2006		
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	10/31/2006		
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		

F. Environmental audits.  
N/A

G. Type of environmental management systems (EMSs).  
N/A

H. Voluntary on-site compliance assessment dates.  
N/A

I. Participation in a voluntary pollution reduction program.  
N/A

J. Early compliance.  
N/A

Sites Outside of Texas  
N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF HUNTINGTON  
RN102184355**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-0329-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Huntington ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility located approximately one mile southeast of the intersection of U.S. Highway 69 and Farm-to-Market Road 1669 between the Southern Pacific Railroad and Shawnee Creek in Angelina County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about March 4, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Nine Hundred Sixty Dollars (\$3,960) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Seven Hundred Ninety-Two Dollars (\$792) is deferred contingent upon the



City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty. Three Thousand One Hundred Sixty-Eight Dollars (\$3,168) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City replaced the original fixed aeration system with a retrievable system that provided increased capacity and improved maintenance on December 13, 2006 and returned to compliance with their permitted effluent limits on January 31, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010191001, Effluent Limitations and Monitoring Requirement No.1, as documented during a record review conducted on February 7, 2007, as indicated in the table below



**Effluent Violation Table**  
City of Huntington  
TPDES Permit No. WQ0010191001 (Outfall 001A)

Permitted Effluent Limits	Monitoring Period End Date					
	02/28/2006	03/31/2006	04/30/2006	07/31/2006	09/30/2006	10/31/2006
NH <sub>3</sub> -N Daily Avg. 3 mg/L	3.4	5.1	13.2	3.1	C	C
NH <sub>3</sub> -N Single Grab 15 mg/L	C	C	16.6	C	C	C
NH <sub>3</sub> -N Daily Avg. 8.8 lbs/dy	C	C	21.3	C	C	C
TSS Daily Avg. 15 mg/L	C	C	C	18.8	19.3	20.3

Avg. = average	C = compliant	mg/L = milligrams per liter
Lbs/dy = pounds per day	NH <sub>3</sub> -N= ammonia nitrogen	TSS = Total Suspended Solids

### III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Huntington, Docket No. 2007-0329-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Three Thousand One Hundred Sixty-Eight Dollars (\$3,168) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of





the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement

4. If the City failed to comply with any of the Ordering Provisions in the Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

7/30/07  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

4-30-07  
Date

JACK CARTER  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Huntington

Deputy Administrator  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

4-30-07

Deputy Administrator

Geoff Carter

ZACK CARTER

**Attachment A**  
**Docket Number: 2007-0329-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Huntington</b>
<b>Payable Penalty Amount:</b>	<b>Three Thousand One Hundred Sixty-Eight Dollars (\$3,168)</b>
<b>SEP Amount:</b>	<b>Three Thousand One Hundred Sixty-Eight Dollars (\$3,168)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Angelina Beautiful Clean</b>
<b>Location of SEP:</b>	<b>Angelina County</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to collect and properly dispose of illegally dumped waste. Eligible sites will be limited to areas where a responsible party cannot be identified and where there is no pre-existing obligation to clean up the site by the owner.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by providing for the proper disposal of waste which will help prevent human health concerns associated with illegally dumped waste.

**C. Minimum Expenditure**

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.



## **2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Valena Spradley  
Chairman of the Board  
Angelina Beautiful Clean  
1615 South Chestnut  
Lufkin, Texas 75901

## **3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

## **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.





**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

